

# **EXHIBIT “C”**

1 ROBINS, KAPLAN, MILLER & CIRESI L.L.P.  
 Roman M. Silberfeld, Bar No. 62783  
 2 RMSilberfeld@rkmc.com  
 Bernice Conn, Bar No. 161594  
 3 Bconn@rkmc.com  
 David Martinez, Bar No. 193183  
 4 DMartinez@rkmc.com  
 2049 Century Park East, Suite 3400  
 5 Los Angeles, CA 90067-3208  
 Telephone: 310-552-0130  
 6 Facsimile: 310-229-5800

7 Attorneys for Plaintiffs

8 BEST BUY CO., INC.; BEST BUY PURCHASING LLC;  
 9 BEST BUY ENTERPRISE SERVICES, INC.; BEST BUY  
 10 STORES, L.P.; BESTBUY.COM, LLC; MAGNOLIA HI-FI,  
 INC.

11  
 12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA

14 IN RE: CATHODE RAY TUBE (CRT)  
 15 ANTITRUST LITIGATION

Master File No. M:07-5994-SC  
 MDL No. 1917

16 This Document Relates to  
 17 Individual Case No. 3:11-cv-05513-SC

Case No. 3:11-cv-05513-SC

18 BEST BUY CO., INC.; BEST BUY PURCHASING LLC;  
 19 BEST BUY ENTERPRISE SERVICES, INC.; BEST BUY  
 20 STORES, L.P.; BESTBUY.COM, L.L.C.; and  
 MAGNOLIA HI-FI, INC.,

21 Plaintiffs,

22 v.

23 HITACHI, LTD.; HITACHI DISPLAYS, LTD.; HITACHI  
 24 AMERICA, LTD.; HITACHI ASIA, LTD.; HITACHI  
 25 ELECTRONIC DEVICES (USA), INC.; SHENZHEN  
 26 SEG HITACHI COLOR DISPLAY DEVICES, LTD.;  
 27 IRICO GROUP CORPORATION; IRICO GROUP  
 ELECTRONICS CO., LTD.; IRICO DISPLAY DEVICES  
 CO., LTD.; LG ELECTRONICS, INC.; LG  
 ELECTRONICS USA, INC.; LG ELECTRONICS  
 TAIWAN TAIPEI CO., LTD.; LP DISPLAYS  
 INTERNATIONAL LTD.;

28 (CONTINUED ON NEXT PAGE)

**BEST BUY'S RESPONSES AND  
 OBJECTIONS TO DEFENDANTS  
 PANASONIC CORPORATION OF NORTH  
 AMERICA AND LG ELECTRONICS, INC.'S  
 THIRD SET OF INTERROGATORIES**

PANASONIC CORPORATION; PANASONIC CORPORATION OF NORTH AMERICA; MT PICTURE DISPLAY CO., LTD.; BEIJING MATSUSHITA COLOR CRT CO., LTD.; KONINKLIJKE PHILIPS ELECTRONICS N.V.; PHILIPS ELECTRONICS NORTH AMERICA CORPORATION; PHILIPS ELECTRONICS INDUSTRIES (TAIWAN), LTD.; PHILIPS DA AMAZONIA INDUSTRIA ELECTRONICA LTDA.; SAMTEL COLOR LTD.; THAI CRT CO., LTD.; TOSHIBA CORPORATION; TOSHIBA AMERICA, INC.; TOSHIBA AMERICA CONSUMER PRODUCTS, LLC; TOSHIBA AMERICA ELECTRONIC COMPONENTS, INC.; TOSHIBA AMERICA INFORMATION SYSTEMS, INC.; CHUNGHWA PICTURE TUBES, LTD.; CHUNGHWA PICTURE TUBES (MALAYSIA); TATUNG COMPANY OF AMERICA, INC.,

Defendants.

**PROPOUNDING PARTIES:**

PANASONIC CORPORATION OF NORTH AMERICA and LGE ELECTONICS, INC.

**RESPONDING PARTY:**

BEST BUY CO., INC.; BEST BUY PURCHASING LLC; BEST BUY ENTERPRISE SERVICES, INC.; BEST BUY STORES, L.P.; BESTBUY.COM, L.L.C.; and MAGNOLIA HI-FI, INC.

**SET NO.:**

THIRD

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiffs Best Buy Co., Inc., Best Buy Purchasing LLC, Best Buy Enterprise Services, Inc., Best Buy Stores, L.P., BestBuy.Com, L.L.C., and Magnolia HI-FI, Inc. (collectively "Best Buy") hereby Object and Respond to Defendants Panasonic Corporation of North America and LG Electronics, Inc.'s Third Set of Interrogatories (hereinafter, the "Interrogatories"), as follows:

///

///

## RESERVATIONS OF RIGHTS

In responding to these Interrogatories, Best Buy states that it has conducted and/or will conduct a diligent search, reasonable in scope, for information responsive to the Interrogatories. Best Buy reserves the right to amend, revise, supplement, modify, or clarify the following objections and responses. Best Buy further reserves the right to complete its investigation and discovery of the facts, and to rely at trial or in other proceedings upon additional information, regardless of whether such information is newly discovered or newly in existence.

Best Buy incorporates by reference any evidence identified by the Direct Purchaser Plaintiffs, the Indirect Purchaser Plaintiffs, and the Direct Action Plaintiffs in response to any discovery request.

Best Buy responds to these Interrogatories as it interprets and understands them. If Defendants subsequently assert an interpretation of any Interrogatory or response that differs from Best Buy's understanding, Best Buy reserves the right to supplement or amend its objections or responses.

Best Buy reserves the right to object to the admission of its responses to the Interrogatories into evidence at trial, or any other proceeding.

## GENERAL OBJECTIONS

1. Best Buy responds without prejudice to its right to use or introduce at later times in this proceeding subsequently discovered information or information omitted from these responses.

2. Best Buy objects to the Interrogatories to the extent they call for the disclosure of information that is subject to the attorney-client privilege, joint prosecution privilege, the work product doctrine, or any other applicable privilege, immunity, or protection.

3. Best Buy objects to the Interrogatories to the extent that they require Best Buy to disclose the confidential, proprietary, or commercially sensitive information of third parties that Best Buy is bound, contractually or otherwise, not to disclose.

4. Best Buy objects to the Interrogatories to the extent that: (i) they seek information that is neither relevant to the parties' claims and defenses in this litigation nor reasonably



1 calculated to lead to the discovery of admissible evidence; (ii) are vague, indefinite, or  
2 ambiguous; (iii) are unduly burdensome or unreasonably broad; (iv) are unreasonably  
3 cumulative or duplicative; or (v) seek information that is already in Defendants' possession,  
4 custody, control, or which is publicly available or otherwise readily accessible to Defendants.

5 5. Best Buy objects to the Interrogatories, including the Instructions and Definitions, to  
6 the extent that they purport to impose upon Best Buy obligations beyond those imposed by the  
7 Federal Rules of Civil Procedure.

8 6. Best Buy objects to the Interrogatories to the extent that they are premature. Best Buy  
9 has not completed its discovery and investigation in this matter, which is ongoing. Best Buy  
10 responds after reasonable inquiry into the relevant facts based only upon presently known  
11 information and documentation. Further investigation and discovery, including further review of  
12 documents produced or to be produced by Defendants, may result in the identification of  
13 additional information. Best Buy's responses should not be construed to prejudice Best Buy's  
14 right to conduct further investigation in this case or to limit Best Buy's use of any evidence that  
15 may be later developed.

16 7. Best Buy objects to the extent Defendants are drawing a distinction between CRTs and  
17 CRT Products. Best Buy interprets all requests related to CRTs to relate exclusively to Best Buy's  
18 purchases of CRT Products, which contain CRTs.

19 8. Best Buy objects to the Interrogatories to the extent that they prematurely seek  
20 expert opinion, and reserves the right to supplement, clarify, revise, or correct any or all  
21 responses to such requests, and to assert additional objections or privileges in accordance with  
22 the time period for exchanging expert reports.

23 Best Buy objects to the Interrogatories in their entirety on the above grounds. In order to  
24 avoid repetition, the foregoing General Objections are hereby incorporated into each response  
25 as if set forth therein.

**OBJECTIONS AND RESPONSES TO INTERROGATORIES****Interrogatory No. 16:**

16. Identify your executives, employees, or agents who participated in any market monitoring activity, including those in the Competitive Strategies Group, related to CRTs or CRT Products. Market monitoring activity includes, but is not limited to, the following: (a) Your competitive intelligence activities; (b) Your use of third-party data sources or market share/data analyses; (c) Your knowledge, use, or tracking of Your competitors' prices; (d) Your knowledge, use, or tracking of Your suppliers' prices; (e) Your knowledge, use, or tracking of Your competitors' promotions; (f) Your knowledge, use, or tracking of Your suppliers' promotions; and/or (g) Your or any of your executives', employees', or agents' participation in any meetings with Your competitors.

**Response:**

In addition to the General Objections above, Best Buy specifically objects to this interrogatory as Overly Broad, Unduly Burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

**Interrogatory No. 17:**

17. For each person identified in response to Interrogatory No. 16, separately describe the nature of his or her knowledge, responsibility, or involvement regarding market monitoring activity.

**Response:**

Best Buy incorporates and restates its response to Interrogatory No. 16.

**Interrogatory No. 18:**

18. Identify each person You believe to have knowledge that supports the fraudulent concealment allegations in Your Complaint, including at paragraphs 220 through 232.

**Response:**

In addition to the General Objections above, Best Buy objects that this interrogatory because it is overly broad, unduly burdensome, and oppressive, particularly as it requests that Best Buy identify every single individuals that ever participated in Defendants' illegal conspiracy

1 over an approximately 12 year period, and seeks information that is maintained by and equally  
2 available to Defendants and/or stated in publicly available documents. Best Buy further objects  
3 to this interrogatory as premature contention discovery.

4 **Interrogatory No. 19:**

5 19. To the extent not already identified in Interrogatories No. 16 through 18, Identify  
6 each person You believe to have knowledge that supports the allegations in Your Complaint.

7 **Response:**

8 In addition to the General Objections above, Best Buy objects that this interrogatory  
9 because it is overly broad, unduly burdensome, and oppressive, particularly as it requests that  
10 Best Buy identify every single individuals that ever participated in Defendants' illegal conspiracy  
11 over an approximately 12 year period, and seeks information that is maintained by and equally  
12 available to Defendants and/or stated in publicly available documents. Best Buy further objects  
13 to this interrogatory as premature contention discovery, as well as on the basis of Attorney  
14 Client privilege and work product protections.

15 **Interrogatory No. 20:**

16 20. For each person identified in response to Interrogatory No. 19, separately Identify  
17 the nature of his or her knowledge that supports the allegations in your Complaint.

18 **Response:**

19 In addition to the General Objections above, Best Buy objects that this interrogatory  
20 because it is overly broad, unduly burdensome, and oppressive, particularly as it requests that  
21 Best Buy identify every single fact relevant to Defendants' illegal conspiracy over an  
22 approximately 12 year period, and seeks information that is maintained by and equally available  
23 to Defendants and/or stated in publicly available documents. Best Buy further objects to this  
24 interrogatory as premature contention discovery, and that it seeks to compel Best Buy to state  
25 its entire case on an incomplete record.  
26  
27  
28



**ROBINS, KAPLAN, MILLER & CIRESI L.L.P.**

DATED: May 7, 2014

By: /s/ Laura E. Nelson

Roman M. Silberfeld

Bernice Conn

David Martinez

Laura E. Nelson

**ATTORNEYS FOR PLAINTIFFS**

**BEST BUY CO., INC.; BEST BUY PURCHASING LLC; BEST  
BUY ENTERPRISE SERVICES, INC.; BEST BUY STORES,  
L.P.; BESTBUY.COM, LLC; MAGNOLIA HI-FI, INC.**

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.  
ATTORNEYS AT LAW  
LOS ANGELES



# **EXHIBIT “D”**



North America Europe Asia

200 Park Avenue  
New York, NY 10166  
T +1 212 294 6700  
F +1 212 294 4700

**JENNIFER M. STEWART**

Associate  
212-294-4743  
Jstewart@winston.com

April 28, 2014

Laura E. Nelson  
Robins, Kaplan, Miller & Ciresi LLP  
2800 LaSalle Plaza  
800 LaSalle Avenue  
Minneapolis, MN 55402-2015

**Re:** *In re Cathode Ray Tube (CRT) Antitrust Litigation*, MDL No. 1917

Dear Laura:

We write on behalf of defendants Panasonic Corporation of North America, MT Picture Display Co., Ltd., and Panasonic Corporation (f/k/a Matsushita Electric Industrial Co., Ltd) in response to the Responses and Objections to Defendants Fed. R. Civ. P. Rule 30(b)(6) Deposition Notice served by plaintiffs Best Buy Co., Inc., Best Buy Purchasing LLC, Best Buy Enterprise Services, Inc., Best Buy Stores, L.P., Bestbuy.com, LLC, and Magnolia HI-FI, Inc. (collectively, "Best Buy") on April 25, 2014 (the "Objections").

In particular, we were very surprised to receive objections and an outright refusal to produce a witness on Topics 19, 21, 28 and 29, as you did not raise any of these issues during our March 25 or April 15 telephonic meet and confers. In addition to Best Buy's boilerplate objections on grounds of vagueness, undue burden, and overbreadth, Best Buy objects to these topics on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence (Topic 19); that they call for privileged information or information that is not known to Best Buy or tracked or kept in the ordinary course of business (Topic 21); or that the information sought is obtainable by less intrusive means (Topics 28 and 29). *See* Objections at 13-14, 17.

With respect to Topic 19, which seeks information on Best Buy's "practices, policies and procedures concerning [its] market monitoring activity for CRT Finished Products," including, but not limited to, competitive intelligence activities, use of third-party data sources and market share/data analyses, and Best Buy's knowledge, use, and tracking of its competitors' pricing for CRT finished products, there is no question that the information sought is highly relevant to Best Buy's claims and is calculated to lead to the discovery of admissible evidence. Mr. Stone has already testified that Best Buy used competitive intelligence in determining competitive pricing and balancing internal strategies and profitability targets, Stone Tr. 45:24-46:13, and we are entitled to further explore the various factors that Best Buy considered in pricing its CRT finished products, including competitor pricing and how that affected Best Buy's pricing decisions.



April 28, 2014  
Page 2

Topic 21, which seeks “the identification, description, date, location, source, and persons involved in all statements that Best Buy read, heard, or otherwise became aware of upon which Best Buy bases its contention that Defendants fraudulently concealed the alleged conspiracy from Best Buy, including a description of Best Buy’s reliance on any such statements,” is also relevant to Best Buy’s claims, and does not fall within the purview of attorney-client privilege. Best Buy alleges that “the affirmative acts of Defendants . . . , including acts in furtherance of the conspiracy, were wrongfully concealed and carried out in a manner that precluded detection,” and that “Defendants’ purported reasons for the price increases of CRTs were materially false and misleading,” precluding Best Buy’s discovery of its claims. *See* Compl. ¶¶ 220-232. Accordingly, whether and when Best Buy heard or became aware of such statements is highly relevant to its claim that defendants affirmatively concealed the conspiracy and Best Buy “could not have discovered the alleged contract, conspiracy or combination at an earlier date by the exercise of reasonable diligence.” *Id.* ¶ 224.

Regarding Topics 28 and 29, which seek the “[i]dentification, location, last known address, telephone number, and e-mail address of any person having or believed to have any information regarding” the topics set forth in the Panasonic defendants’ April 18, 2014 30(b)(6) deposition notice and facts underlying those topics, Best Buy objects on the basis that these requests “can be resolved through an interrogatory or the informal exchange of information relevant to Best Buy’s data production, as is already occurring between the parties.” Objections at 17. The Panasonic defendants are willing to resolve these topics in a less intrusive manner upon confirmation that Best Buy will provide informal responses to Topics 28 and 29, along with a date certain by which we can expect to receive such informal responses.

If Best Buy is unwilling to further meet and confer on Topics 19 and 21, or to confirm that it will provide informal responses to Topics 28 and 29, we will be left with no choice but to pursue the proper remedies before Judge Walker at the appropriate time.

In addition to your response on the problematic 30(b)(6) objections that we have identified herein, please let us know whether you have had an opportunity to consider potential dates for the depositions of John Preiner and Christopher Groves, and when we can expect to receive Mr. Groves’ custodial documents.

Finally, we have not yet received Best Buy’s identification of its 30(b)(6) deponent or deponents, which we had requested confirmation of in our April 16 letter by April 25, 2014. Please confirm the name or names of this individual or individuals.

Sincerely,

/s/ Jennifer M. Stewart  
Jennifer M. Stewart

cc: Eva W. Cole, Esq.  
Molly M. Donovan, Esq.





North America Europe Asia

200 Park Avenue  
New York, NY 10166  
T +1 212 294 6700  
F +1 212 294 4700

**JENNIFER M. STEWART**

Associate  
212-294-4743  
Jstewart@winston.com

April 28, 2014

Laura E. Nelson  
Robins, Kaplan, Miller & Ciresi LLP  
2800 LaSalle Plaza  
800 LaSalle Avenue  
Minneapolis, MN 55402-2015

**Re:** *In re Cathode Ray Tube (CRT) Antitrust Litigation*, MDL No. 1917

Dear Laura:

We write on behalf of defendants Panasonic Corporation of North America, MT Picture Display Co., Ltd., and Panasonic Corporation (f/k/a Matsushita Electric Industrial Co., Ltd) in response to the Responses and Objections to Defendants Fed. R. Civ. P. Rule 30(b)(6) Deposition Notice served by plaintiffs Best Buy Co., Inc., Best Buy Purchasing LLC, Best Buy Enterprise Services, Inc., Best Buy Stores, L.P., Bestbuy.com, LLC, and Magnolia HI-FI, Inc. (collectively, "Best Buy") on April 25, 2014 (the "Objections").

In particular, we were very surprised to receive objections and an outright refusal to produce a witness on Topics 19, 21, 28 and 29, as you did not raise any of these issues during our March 25 or April 15 telephonic meet and confers. In addition to Best Buy's boilerplate objections on grounds of vagueness, undue burden, and overbreadth, Best Buy objects to these topics on the basis that they are not reasonably calculated to lead to the discovery of admissible evidence (Topic 19); that they call for privileged information or information that is not known to Best Buy or tracked or kept in the ordinary course of business (Topic 21); or that the information sought is obtainable by less intrusive means (Topics 28 and 29). *See* Objections at 13-14, 17.

With respect to Topic 19, which seeks information on Best Buy's "practices, policies and procedures concerning [its] market monitoring activity for CRT Finished Products," including, but not limited to, competitive intelligence activities, use of third-party data sources and market share/data analyses, and Best Buy's knowledge, use, and tracking of its competitors' pricing for CRT finished products, there is no question that the information sought is highly relevant to Best Buy's claims and is calculated to lead to the discovery of admissible evidence. Mr. Stone has already testified that Best Buy used competitive intelligence in determining competitive pricing and balancing internal strategies and profitability targets, Stone Tr. 45:24-46:13, and we are entitled to further explore the various factors that Best Buy considered in pricing its CRT finished products, including competitor pricing and how that affected Best Buy's pricing decisions.



April 28, 2014  
Page 2

Topic 21, which seeks “the identification, description, date, location, source, and persons involved in all statements that Best Buy read, heard, or otherwise became aware of upon which Best Buy bases its contention that Defendants fraudulently concealed the alleged conspiracy from Best Buy, including a description of Best Buy’s reliance on any such statements,” is also relevant to Best Buy’s claims, and does not fall within the purview of attorney-client privilege. Best Buy alleges that “the affirmative acts of Defendants . . . , including acts in furtherance of the conspiracy, were wrongfully concealed and carried out in a manner that precluded detection,” and that “Defendants’ purported reasons for the price increases of CRTs were materially false and misleading,” precluding Best Buy’s discovery of its claims. *See* Compl. ¶¶ 220-232. Accordingly, whether and when Best Buy heard or became aware of such statements is highly relevant to its claim that defendants affirmatively concealed the conspiracy and Best Buy “could not have discovered the alleged contract, conspiracy or combination at an earlier date by the exercise of reasonable diligence.” *Id.* ¶ 224.

Regarding Topics 28 and 29, which seek the “[i]dentification, location, last known address, telephone number, and e-mail address of any person having or believed to have any information regarding” the topics set forth in the Panasonic defendants’ April 18, 2014 30(b)(6) deposition notice and facts underlying those topics, Best Buy objects on the basis that these requests “can be resolved through an interrogatory or the informal exchange of information relevant to Best Buy’s data production, as is already occurring between the parties.” Objections at 17. The Panasonic defendants are willing to resolve these topics in a less intrusive manner upon confirmation that Best Buy will provide informal responses to Topics 28 and 29, along with a date certain by which we can expect to receive such informal responses.

If Best Buy is unwilling to further meet and confer on Topics 19 and 21, or to confirm that it will provide informal responses to Topics 28 and 29, we will be left with no choice but to pursue the proper remedies before Judge Walker at the appropriate time.

In addition to your response on the problematic 30(b)(6) objections that we have identified herein, please let us know whether you have had an opportunity to consider potential dates for the depositions of John Preiner and Christopher Groves, and when we can expect to receive Mr. Groves’ custodial documents.

Finally, we have not yet received Best Buy’s identification of its 30(b)(6) deponent or deponents, which we had requested confirmation of in our April 16 letter by April 25, 2014. Please confirm the name or names of this individual or individuals.

Sincerely,

/s/ Jennifer M. Stewart  
Jennifer M. Stewart

cc: Eva W. Cole, Esq.  
Molly M. Donovan, Esq.



ROBINS, KAPLAN, MILLER & CIRESI LLP

2800 LASALLE PLAZA  
800 LASALLE AVENUE  
MINNEAPOLIS, MN 55402-2015  
TEL: 612-349-8500 FAX: 612-339-4181  
www.rkmc.com

ATTORNEYS AT LAW

Laura E. Nelson  
LENelson@rkmc.com  
612-349-0986

*Via email*

May 5, 2014

Jennifer M. Stewart  
Winston & Strawn LLP  
200 Park Avenue  
New York, NY 10166-4193

Re: In re Cathode Ray Tube (CRT) Antitrust Litigation

Dear Jennifer:

I write in response to your April 28, 2014 letter and in light of our upcoming meet-and-confer later this afternoon.

Regarding deposition scheduling, we are in the process of obtaining dates for Mr. Preiner, who recently left Best Buy. Regarding Mr. Groves, we expect to complete a review of his custodial file on or before June 13. Mr. Groves is available for deposition on June 20.

In response to deposition topics 28 and 29, we agree to provide information on an informal basis similar to how we handled the data discovery. In light of our previous interrogatory responses related to persons with knowledge, please let us know what additional information you would like.

Finally, we are not sure why you are surprised that we lodged objections to certain deposition topics. As I indicated in my email of April 9, we agreed to produce one or more witnesses for deposition subject to our objections. Nevertheless, we remain willing to meet and confer this afternoon to hopefully resolve or clarify the remaining objections.

Best,  
Laura E. Nelson  
Laura E. Nelson



# **EXHIBIT “E”**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: TFT-LCD (FLAT PANEL) ANTITRUST MDL No. 1827  
LITIGATION

\_\_\_\_\_/ No. C 10-4572 SI  
No. C 12-4114 SI  
No. C 10-5452 SI  
No. C 10-4945 SI

This Order Relates To:

*Best Buy v. AU Optronics Corp., et al.,*  
Case No. 10-CV-4572;

*Best Buy v. Toshiba Corp., et al.,*  
Case No. 12-CV-4114;

*Eastman Kodak Company v. Epson Imaging*  
*Devices Corp., et al.,* Case No. 10-CV-5452;

*Target Corp., et al., v. AU Optronics Corp., et al.,*  
Case No. 10-CV-4945.

**FINAL PRETRIAL SCHEDULING  
ORDER - PHASE 1 DAP TRIAL**

On July 9, 2013, the Court held a Pretrial Conference on this matter, which is scheduled for jury trial beginning July 22, 2013. All parties were represented by counsel. Based on that conference, the following matters have been resolved:

**1. Parties:** The three trial plaintiffs are the Best Buy plaintiffs; the Target plaintiffs (including Target; Sears, Roebuck; Kmart; RadioShack; OldComp/CompUSA; Newegg; and Good Guys); and Eastman Kodak Company. The four defendants are AU Optronics; HannStar Display; LG Display; and Toshiba. Unless otherwise specified, all plaintiffs constitute one side, and all defendants constitute another side.

1           2.     **Number of jurors and challenges:** There shall be a jury of 10 members. Each side  
2 shall have up to five peremptory challenges.

3  
4           2.     **Voir dire:** The parties shall provide the Jury Administrator with 55 copies of the  
5 approved jury questionnaire by 4 p.m. on Wednesday, July 17, 2013. The Jury Administrator will  
6 distribute the blank questionnaires to potential jurors on Thursday, July 18, 2013, and counsel will  
7 obtain and copy the completed questionnaires thereafter. The parties shall provide the Court with a set  
8 of the completed jury questionnaires by noon Friday, July 19, 2013. If the parties jointly agree to any  
9 dismissals/challenges for cause based on the questionnaire answers of any potential jurors, they should  
10 inform the Court and the Jury Administrator of the names of such jurors by 3 p.m. on Friday, July 19,  
11 2013. Voir dire will be conducted on Monday, July 22, 2013, beginning at 8:30 a.m. The Court  
12 anticipates that counsel will have reviewed and considered the completed questionnaires in advance of  
13 voir dire. Counsel for each party may have 5 minutes to provide a neutral, non-argumentative statement  
14 of the case, prior to commencement of oral voir dire by the Court. The Court will conduct general voir  
15 dire, and counsel for each side shall have up to 40 minutes total to question the panel.

16  
17           3.     **Jury instructions:** The parties shall submit jointly requested preliminary instructions,  
18 to be provided to the jury at the commencement of the case, no later than July 18, 2013. The parties'  
19 final submission of instructions to the Court shall be filed in hard copy and also submitted to the court  
20 in digital format suitable for reading by WordPerfect (\*.wpd file), on a date to be designated by the Court  
21 after trial commences. The Court will undertake to resolve the parties' disputes concerning the pass-on  
22 instructions prior to July 22, 2013.

23  
24           4.     **Trial exhibits:** Counsel may set up the courtroom for trial during the week of July 15,  
25 2013.

26  
27           5.     **Timing of trial:** The trial has been scheduled for approximately 6 weeks, commencing  
28 July 22, 2013. Based on this schedule, each party shall have up to 25 minutes for opening statements;



each side shall have 50 hours total for presentation of evidence, which includes direct and cross-examination and presentation of all exhibits; and each party shall have up to 45 minutes for closing argument. As noted at the pretrial conference, this time allocation is substantial and cannot practicably be expanded. If any party engages in dilatory or unreasonable conduct which unnecessarily delays the proceedings, then the Court may revise the time allocations accordingly.

6. **Trial schedule:** Jury trials are generally conducted Monday through Thursday; jury trials are generally not conducted on Fridays, although deliberating juries are free to deliberate on Fridays. The trial day runs from 8:30 a.m. until 3:30 p.m., with a 15 minute break at 10:00 a.m., a 30-45 minute break at 12:00 noon and a 15 minute break at 2:00 p.m., all times approximate. The Court will be unavailable on August 22, 2013, and August 26-27, 2013.

7. **Motions in limine:** The parties filed approximately 42 motions in limine. All were discussed at the Pretrial Conference. Some have been mooted by stipulation; the balance are resolved as follows:

**Plaintiffs' Motions:**

No. 1: To exclude evidence of unrelated litigation: GRANTED.

Nos. 2: To exclude references to plaintiffs' purported "market power": DENIED as overbroad, without prejudice to specific objections to specific questions at time of trial.

No. 3: To exclude evidence of IPP class settlement: The parties represented that they will stipulate to resolution of this issue; DENIED as moot.

No. 4: To exclude evidence that Toshiba's products sold to plaintiffs did not contain Toshiba panels: DENIED.

No. 5: To exclude evidence that Best Buy engaged in communications with competitors: DENIED.

No. 6: To exclude references to Special Master Quinn's order striking portions of Prof. SDL's rebuttal opinions: GRANTED, as to any references to this (or any other) order of the Special Master. Plaintiffs represent that they do not intend to ask Prof. SDL any questions concerning the

1 stricken rebuttal material. If defendants wish to cross-examine or otherwise inquire about the substance  
2 of the rebuttal report, they may seek leave to Court to do so.

3 No. 7: To admit corporate disclosure statements filed in non-related cases pursuant to  
4 Rule 807: DENIED.

5 No. 8: To exclude evidence concerning Eric Koran and Dell's alleged knowledge of  
6 defendants' conspiracy: GRANTED, absent offer of proof demonstrating that Koran's or Dell's  
7 knowledge is relevant to plaintiffs' state of mind.

8 No. 9: To exclude evidence related to Best Buy's alleged knowledge of the conspiracy  
9 from use against Kodak and Target plaintiffs: DENIED. The Court will give an appropriate limiting  
10 instruction upon request.

11 No. 10. To exclude reference to and evidence of the ability of plaintiffs to seek treble  
12 damages and attorneys' fees and costs: GRANTED.

13 No. 11. To exclude references or arguments regarding other actions and settlements in  
14 this MDL: The parties represented that they will stipulate to resolution of this issue; DENIED as moot.

15 No. 12. To exclude references to the current financial condition of any of the named  
16 plaintiffs (brought by all plaintiffs except Kodak): GRANTED, absent offer of proof demonstrating  
17 relevance of evidence. Kodak agrees not to argue that its bankruptcy is related to defendants' conduct  
18 in this action, but may seek leave to explain that various of its business units are not functioning and  
19 therefore could not provide witnesses at trial.

20 No. 13. Motion to exclude references to statements made by DO officials regarding  
21 multiple conspiracies: GRANTED, absent further Court order based on offer of proof.

22 No. 14. To exclude any reference to the DO's Rule 12-4 disclosures in the related  
23 criminal actions: GRANTED.

24 No. 15. To preclude argument that plaintiffs' claims are barred because they arise from  
25 foreign commerce: GRANTED as to argument. If and to the extent that factual predicates must be  
26 established at trial re FTAIA issues, those will be submitted to the jury for determination.

27 No. 16. To preclude evidence regarding "pass on" in connection with Best Buy's and  
28 Target plaintiffs' claims: DENIED; pass on evidence is relevant to state law indirect purchaser claims.



1 No. 17: To exclude evidence regarding plaintiffs' alleged failure to mitigate damages:  
2 GRANTED, absent further order on offer of proof regarding relevance. The Court has already ruled that  
3 failure to mitigate is not a defense to damages claims.

4 No. 18: To exclude live witnesses from testifying in defendants' case in chief who were  
5 not made available for live testimony in plaintiffs' case in chief: The parties represented that they will  
6 stipulate to resolution of this issue; DENIED as moot.

7 No. 19: To exclude percipient witnesses, except for party representatives, from courtroom  
8 unless testifying: The parties represented that they will stipulate to resolution of this issue; DENIED  
9 as moot.

10 No. 20: To preclude expert witness testimony on incomplete pass-on of overcharges  
11 through affiliate entities: GRANTED as to damage claims under Sherman Act ; DENIED as to damage  
12 claims based on indirect purchases under state laws.

13 No. 21: To admit evidence that certain witnesses may have invoked the Fifth Amendment  
14 privilege against self incrimination: The Court will not allow reference to the Fifth Amendment  
15 invocation of witnesses who thereafter withdrew the invocation and testified, or of Ms. Caperton.  
16 Reference to the invocation, and application of any adverse inferences therefrom, as to any other  
17 witnesses will be considered on a case by case basis. DENIED as framed, subject to offers of proof at  
18 trial. See also defendants' motions in limine Nos. 2, 3 and 19.

19 No. 22: Motion for pretrial ruling on the admissibility of documents: DENIED as  
20 overbroad and premature.

21 No. 23: Motion for pretrial ruling on summary witness testimony reflecting conspiracy  
22 meetings and communications: DENIED as premature. Summary witnesses may be allowed if  
23 documents summarized are in evidence and testimony relates only to compiling voluminous documents  
24 into a neutral chart.

25 **Defendants' Motions:**

26 No. 1: To exclude all evidence of or comment about guilty pleas: DENIED, without  
27 prejudice to specific objections to specific questions at trial.

28 No.2: To adopt orders on motions in limine regarding Fifth Amendment invocations:



1 See ruling on plaintiffs' motion No. 21.

2 No. 3: Motion for pre-instructions to jury: GRANTED, to this extent: If the parties  
3 present the Court with agreed-upon preliminary instructions on the substantive claims, the Court will  
4 preinstruct.

5 No. 4: To redact all documents stamped as "grand jury material" or with other  
6 designations that refer to criminal proceedings: GRANTED as to "grand jury material"; DENIED as to  
7 balance, without prejudice to specific objections to specific documents

8 No. 5: To exclude evidence or testimony pertaining to unrelated antitrust investigations:  
9 DENIED as overbroad, without prejudice to specific objections to specific questions at trial.

10 No. 6: To exclude evidence pertaining to unrelated antitrust investigations: DENIED as  
11 overbroad, without prejudice to specific objections to specific questions at trial.

12 No. 7: To exclude evidence and arguments related to "gross gains" finding in AUO  
13 criminal trial: The parties represented that they will stipulate to resolution of this issue; DENIED as  
14 moot.

15 No. 8: To exclude discovery responses by non-parties: DENIED as overbroad, without  
16 prejudice to specific objections to specific questions at trial.

17 No. 9: To exclude evidence relating to stereotyping of foreign companies: DENIED, for  
18 same reasons as and to same extent as in order on *Daubert* motions.

19 No. 10: To exclude evidence related to investigations and indictments: DENIED as  
20 overbroad, without prejudice to specific objections to specific questions at trial.

21 No. 11: To exclude evidence pertaining to employment issues related to employees who  
22 have pled guilty: DENIED.

23 No. 12: To exclude presentations of "full consideration damages": WITHDRAWN.

24 No. 13: To preclude evidence of invocations of the Fifth Amendment: See ruling on  
25 plaintiffs' motion No. 21.

26 No. 14: See separate order concerning choice of law.

27 No. 15: To exclude evidence of the vacated verdict from the DPP trial: The parties  
28 represented that they will stipulate to resolution of this issue; DENIED as moot.



**United States District Court**  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28